



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 20-02090  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Ross Hyams, Esq., Department Counsel  
For Applicant: *Pro se*

June 2, 2021

**Decision**

Lokey Anderson, Darlene D., Administrative Judge:

On October 11, 2019, Applicant submitted a security clearance application (e-QIP). On November 21, 2020, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations and Guideline E, Personal Conduct. (Item 1.) The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Policy effective June 8, 2017.

Applicant responded to the SOR (Answer) on December 29, 2020. (Item 3.) He requested that his case be decided by an administrative judge on the written record. Department Counsel submitted the Government's written case on February 12, 2021. A complete copy of the File of Relevant Material (FORM), containing seven Items was received by Applicant on February 27, 2020. He was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted a thirty-two page response to the FORM

within the 30 day period, referred to as Applicant's Exhibit A, which was admitted into the record without objection. DOHA assigned the case to me on May 19, 2021. Hereinafter, all reference to Government Items will be referenced as Government Exhibits.

### **Findings of Fact**

Applicant is 41 years old. He is married with three children. He has a high school diploma and extensive military training. He is employed with a defense contractor as an Aircraft Mechanic II. He is applying for a security clearance in connection with his employment. Applicant began working for his current employer in October 2019.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness, and ability to protect classified information.

The SOR identified seven delinquent debts totaling approximately \$40,000. It also alleged that Applicant falsified his security clearance application by failing to list his delinquent debts. In his answer to the SOR, Applicant admits to each of the delinquent accounts, but denies that he falsified his security clearance application. Credit Reports of Applicant dated November 16, 2019; and August 31, 2020, confirm the indebtedness listed in the SOR. (Government Exhibits 6 and 7.)

Applicant served in the United States Navy from May 1999 to May 2019, when he retired. He received an honorable discharge. Applicant explained that his transition from military to civilian life was very challenging. He picked up a contract right after he retired, however, it only lasted four months. His current employer was ready at that time to hire him, but because Applicant was no longer Navy affiliated, his security clearance was stopped and the reapplication process began again, this time as a civilian. The process took time. This delayed his start date with the defense contractor and he was without employment from September 6, 2019, to November 21, 2019. During this period, Applicant and his family lived solely on his monthly retirement check and his wife's limited income. Applicant was eventually granted an interim clearance as a clearance was necessary for the job. In total, following his retirement from the Navy, Applicant was out of work for about 75 days, which created enormous strain on his finances.

Applicant explained that during their 17-year marriage, he and his wife shared a bank account together. She has always been responsible for taking care of the finances including paying the rent, car payments, and other bills. They raised three children and supported a family of five. Applicant placed all of the credit cards and other debt in his name. For about a year, their marriage fell apart and although not

legally separated, they maintained two households, lived apart, and still supported their children. This created extra expenses and debt that Applicant was not expecting. Applicant states that during this period, he did not know that his wife was allowing their debt to go unpaid, as she did not tell him. Eventually, with help from family, friends and counseling, Applicant and his wife were able to work through their differences, improve their communication, and restore their marriage. By then, however, they had accumulated delinquent debt that needed to be resolved.

Applicant and his wife obtained financial counseling from the Navy Fleet and Family Support Center, and will be receiving recurring counseling on a monthly basis to help with their monthly spending. They have been learning how to live on a budget, how to check their credit report, and how to maintain good credit. Applicant was also advised to contact each of his creditors and to set up a payment plan to resolve the debt. Applicant has done that and more.

The following delinquent debts were at one time owing:

1.a. A delinquent military credit card account was past due in the approximate amount of \$100, with total balance owed of \$9,469. Applicant explained that this account is paid through automatic deduction from his retirement pay. These deductions will continue until the debt is paid off. (Applicant's Exhibit A.)

1.b. A delinquent debt owed to the NAVY FEDERAL CREDIT UNION on an account was charged off in the approximate amount of \$5,000 with a balance of \$5,884. Applicant has structured a payment plan with the creditor. Since January 15, 2021, he has been making regular monthly payments of \$50 to resolve this debt. He has provided documentation substantiating these payments. (Applicant's Exhibit A.)

1.c. A delinquent debt owed to the NAVY FEDERAL CREDIT UNION on an account was charged off with a balance owed of \$16,943. Applicant has structured a payment plan with the creditor. Since January 15, 2021, he has been making regular monthly payments of \$100 to resolve this debt. He has provided documentation substantiating these payments. (Applicant's Exhibit A.)

1.d. A delinquent debt owed to the NAVY FEDERAL CREDIT UNION on an account was charged off with a balance owed of \$5,241. Applicant has structured a payment plan with the creditor. Since February 26, 2021, Applicant has been making regular monthly payments of \$50 to resolve this debt. He has provided documentation substantiating these payments. (Applicant's Exhibit A.)

1.e. A delinquent credit card debt owed to a department store on an account was charged off with a balance owed of \$462. This debt has been paid in full. He has provided documentation substantiating this pay-off. (Applicant's Exhibit A.)

1.f. A delinquent debt owed to a creditor on an account was charged off in the amount of \$1,278. Applicant has structured a payment plan with the creditor. Since

January 2021, he has been making regular monthly payments of \$50 to resolve this debt. (Applicant's Exhibit A.)

### **Guideline E - Personal Conduct**

Applicant completed an Electronic Questionnaire for Investigations Processing (e-OIP) dated October 11, 2019. (Government Exhibit 4.) In response to Section 26 concerning his financial record, Applicant was asked a series of questions. Specifically, in the past seven years, has he had any repossessions or property voluntarily or involuntarily repossessed or foreclosed? In the past seven years, has he defaulted on any type of loan? In the past seven years, has he had bills or debts turned over to a collection agency? In the past seven years, has he had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed? In the past seven years, has he been evicted for non-payment? In the past seven years, has he had his wages, benefits or assets been garnished or attached for any reason? In the past seven years, has he been over 120 days delinquent on any debt not previously entered? The Applicant answered, "NO." At the time he completed the application, Applicant was currently 120 days delinquent on some of his accounts. He should have answered, "YES," in response to this question.

Applicant explained that he knew he had some financial accounts opened at one time, but at the time he completed the application, he thought that they had all been closed, and that his wife had paid them off, or had been paying them. Applicant admits that at one point, she told him that they did not have good credit, but provided no further details. Applicant stated that he did not intentionally falsify the security clearance application. At the time he completed the application, he did not think that he was delinquent on any payments. He answered the questions to the best of his ability. Applicant did not have a copy of his credit report at the time he completed the application, but now realizes that he should have. It was not until his interview with the DoD special agent that it was brought to his attention that he had delinquent debts on his record. It was at that point that he realized he needed outside assistance to help him resolve the debts. Upon learning of these debts, he immediately began to work toward resolving them.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and

commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who applies for access to classified information seeks to enter into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental

health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant's transition from the Navy, after a twenty-year military career, into civilian life was difficult. It also took time to process his security clearance, which impacted his delay in getting hired in the defense industry, and ultimately contributed to his financial hardship. His one year separation from his wife caused unexpected expenses and prevented him from knowing about his delinquent debts. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangement.

Since learning of his debts from the DoD investigator, Applicant has been diligently making payments to his creditors to resolve his debts. Applicant has submitted documentary evidence to show that each of the debts listed in the SOR have been or are currently being addressed. The documentation includes receipts, copies of checks, billing statements, and/or a letter from the debt collector showing the payments have been made. There is sufficient documentary evidence to show that he is resolving

his delinquent debt. Applicant has provided a reasonable explanation for the delinquent debts. Not an excuse, but an explanation, namely, his difficulty in transitioning from his Navy career to becoming a civilian, as well as the time it took to process a security clearance. The evidence is clear that Applicant understands the importance of paying his debts on time, and in fact was not aware that he had delinquent debts until he met with the investigator about his security clearance. He and his wife are now back together. They are receiving financial counseling on a monthly basis from the Navy. Applicant is paying his debts and plans to continue to follow his scheduled payment plans until they are completely resolved. Applicant is now in control of his finances. Under the particular circumstances of this case, Applicant has established that he has acted reasonably and responsibly with respect to his debts and his financial problems of the past are under control. Accordingly, Guideline F is found for the Applicant.

### **Guideline E, Personal Conduct**

The security concern for the personal conduct guideline is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

AG ¶ 17 provides conditions that could mitigate security concerns. I have considered each of the mitigating conditions under AG ¶ 17 below:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

In response to questions about his financial history, Applicant did not reveal his delinquent debts on his security clearance application. Applicant explained that during his marriage his wife always paid all of the household expenses and other bills. At least one year of their marriage they lived apart in separate households, but still supporting their children. Applicant states that he did not know that his wife was not paying their bills. The delinquent debts listed in the SOR were debts that became delinquent during this time. Since learning of these delinquencies, Applicant has taken major steps to get them resolved. He has contacted the creditors, set up payment plans, and strictly followed the payment plans to resolve the debt. He has also obtained professional financial counseling that will avoid any financial problems in the future. This shows good judgment, reliability and trustworthiness. These are necessary characteristics of an individual who can be entrusted with the national secrets. Applicant also knows that before ever completing a security clearance application in the future, he should obtain a copy of his credit report. He has learned from his credit counselor how to do this. Under the particular facts of this case, I do not find that he deliberately concealed his financial history from the Government. To the contrary, I find that Applicant has shown good judgment, reliability and trustworthiness to access classified information.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):



(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guideline F and Guideline E in my whole-person analysis. Applicant has provided documentary evidence to support his statements. There is sufficient documentation in the record to show that since learning of his delinquent debt, Applicant has worked diligently to resolve it. Furthermore, he did not deliberately provide false information in response to the questions about his delinquent debts. Due to a period of discord in their marriage, he and his wife were living apart, not communicating, and he was not aware that some bills were not being paid. Since then, each of these debts have been addressed. Accordingly, Applicant has demonstrated that he is financially responsible and sufficiently trustworthy to access classified information.

Overall, the record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Financial Considerations and Personal Conduct security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a through 1.g.:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a.:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge